

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RANDY W. NICHOLS,)	
AIS #117491,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:07-CV-287-MEF
)	
ALA. DEPT. OF CORRECTIONS, et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

Randy W. Nichols ["Nichols"], a state inmate, filed this 42 U.S.C. § 1983 action in which he challenges a disciplinary lodged against him for attempt to escape by force. Upon review of the complaint, the court deemed it necessary that Nichols file an amended complaint and therefore entered an order requiring that he undertake such action. *Order of April 20, 2007 - Court Doc. No. 5*. The court specifically cautioned Nichols that his "fail[ure] to comply with the directives of this order" would result in entry of a recommendation "that this case be dismissed." *Id.* at 2. The time allowed Nichols for filing an amended complaint in compliance with the directives of the aforementioned order expired on May 7, 2007. As of the present date, Nichols has failed to file the requisite amended complaint. The court therefore concludes that this case should be dismissed.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed without prejudice for failure of the plaintiff to comply with the orders of this

court and his failure to properly prosecute this action.

It is further

ORDERED that on or before June 4, 2007 the parties may file objections to the Recommendation. Any objection must specifically identify the findings in the Recommendation objected to. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings in the Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, en banc), adopting as binding precedent all decisions of the former Fifth Circuit issued prior to September 30, 1981.

DONE, this 21st day of June, 2007.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
UNITED STATES MAGISTRATE JUDGE